

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: APPLICATION FOR AN
EXTENSION OF NON-DISCLOSURE
ORDER TO INSTAGRAM, INC.

TO BE FILED UNDER SEAL

Application for Continued Non-Disclosure Order Pursuant to 18 U.S.C. § 2705(b)

No. 18-MC-1504

**APPLICATION FOR AN ORDER EXTENDING
NON-DISCLOSURE ORDER TO INSTAGRAM LLC**

On June 1, 2018, the Honorable Peggy Kuo issued an Order, pursuant to 18 U.S.C. § 2705(b) ordering Instagram Inc. (“Instagram”), an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account), of the existence of a subpoena for the period of one year from the date of the Order. 18 Misc. 1504 (the “June 1, 2018 Non-Disclosure Order,” attached hereto and incorporated).¹

Absent an extension, the June 1, 2018 Non-Disclosure Order expired on June 1, 2019.² The United States requests that the Court extend the June 1, 2018 Non-Disclosure Order for the period of two months from the date of this order because the subpoena attached to the June 1, 2018 Non-Disclosure Order relates to an ongoing criminal investigation that is neither public nor known to the targets of the investigation, and there is reason to believe that disclosure of the subpoena will alert the targets to the ongoing investigation. Specifically,

¹ Although the subpoena is directed to Facebook, not Instagram, it requested information about an Instagram ID. Instagram is owned by Facebook. Instagram has already responded to the subpoena directed to Facebook, as well as complied with the June 1, 2018 Non-Disclosure Order.

² Despite the expiration of the June 1, 2018 Non-Disclosure Order, Instagram has not yet informed the subscribers and customers of the account of the existence of the subpoena.

the account listed in the subpoena is believed to belong to an individual who is a target of the investigation, who is at large and who does not yet know of the investigation. Accordingly, there is reason to believe that notification of the existence of the subpoena will seriously jeopardize the investigation, including by giving the target, as well as coconspirators, an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, or intimidate potential witnesses. *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically and can be completely and permanently erased. Some of the evidence in this investigation involves communications that can be transferred to alternate platforms (including encrypted platforms and platforms beyond the jurisdictional reach of U.S. legal process). If alerted to the existence of the subpoena, there is reason to believe that the subjects under investigation will destroy that evidence and change their patterns of behavior.

WHEREFORE, the United States respectfully requests that the Court extend the June 1, 2018 Non-Disclosure Order for the period of two months and direct Instagram not to disclose the existence or content of the subpoena attached to the June 1, 2018 Non-Disclosure Order for the period of two months from the date of the attached Order, except that Instagram may disclose the subpoena to an attorney for Instagram for the purpose of receiving legal advice.

The United States further requests that the Court order that this application and any resulting order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all

of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Dated: Brooklyn, New York

June 12, 2019

RICHARD P. DONOGHUE

United States Attorney
Eastern District of New York

By:



Oren Gleich
Assistant U.S. Attorney
(718) 254-6569

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: ORDER EXTENDING NON-DISCLOSURE ORDER TO INSTAGRAM, INC.

TO BE FILED UNDER SEAL

No. 18-MC-1504

ORDER

On June 1, 2018, the Honorable Peggy Kuo issued an Order, pursuant to 18 U.S.C. § 2705(b) ordering Instagram, Inc. (“Instagram”), an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account), of the existence of a subpoena for the period of one year from the date of the Order. 18 Misc. 1504 (the “June 1, 2018 Non-Disclosure Order,” attached hereto and incorporated). Absent an extension, the June 1, 2018 Non-Disclosure Order expired on June 1, 2019.

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court extend the June 1, 2018 Non-Disclosure Order for the period of two months and command Instagram, an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account listed in the subpoena attached to the June 1, 2018 Non-Disclosure Order) of the existence of the subpoena for the period of two months from the date of this Order.

The Court determines that there is reason to believe that notification of the existence of the subpoena attached to the June 1, 2018 Non-Disclosure Order will seriously jeopardize the investigation or unduly delay a trial, including by giving the target, as well as coconspirators, an opportunity to flee or continue flight from prosecution, destroy or tamper

with evidence, change patterns of behavior, or intimidate potential witnesses. *See* 18 U.S.C. § 2705(b).

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) that Instagram shall not disclose the existence of the subpoena attached to the June 1, 2018 Non-Disclosure Order, or this Order of the Court, to the listed subscriber or to any other person for the period of two months from the date of this Order, except that Instagram may disclose the attached subpoena to an attorney for Instagram for the purpose of receiving legal advice.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

Dated: Brooklyn, New York

June 12, 2019

HONORABLE JAMES ORENSTEIN
UNITED STATES MAGISTRATE JUDGE
Eastern District of New York

EMR
F. #2018R01074

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: GRAND JURY SUBPOENA TO
INSTAGRAM

TO BE FILED UNDER SEAL

No. 18-MC-1504

ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Instagram, an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account(s) listed in the subpoena) of the existence of the attached subpoena for the period of one year from the date of this Order.

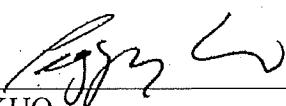
The Court determines that there is reason to believe that notification of the existence of the attached will seriously jeopardize the investigation or unduly delay a trial, including by giving targets an opportunity to flee from prosecution, destroy or tamper with evidence, change patterns of behavior, intimidate potential witnesses, or endanger the life or physical safety of an individual. *See* 18 U.S.C. § 2705(b).

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) that Instagram shall not disclose the existence of the attached subpoena, or this Order of the Court, to the listed subscriber or to any other person for the period of one year from the date of this Order, except that may disclose the attached subpoena to an attorney for Instagram for the purpose of receiving legal advice.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

Dated: Brooklyn, New York

June 1, 2018


PEGGY KUO
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: FACEBOOK
156 UNIVERSITY AVENUE
PALO ALTO, CA 94301-1605

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: U.S. District Court, Eastern District of New York
225 Cadman Plaza East, 5th Floor, Room N547
Brooklyn, New York 11201

Date and Time:
JUN18, 2018
10:00A.M.

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

SEE ATTACHED RIDER



YOU MAY COMPLY WITH THIS SUBPOENA BY PROVIDING THE REQUESTED INFORMATION TO SPECIAL AGENT RYAN LAWSON OF THE FEDERAL BUREAU OF INVESTIGATION, 26 FEDERAL PLAZA, 23RD FLOOR, NEW YORK, NY 10278, TELEPHNEN NUMBER:(212) 384-2296, EMAIL ADDRESS:rclawson@fbi.gov.

DOUGLAS C. PALMER

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Assistant U.S. Attorney Amy Busa, U.S. Attorney's Office, Eastern District of New York
271 Cadman Plaza East, Brooklyn, New York 11201
Amy.Busa@usdoj.gov
(718) 254-6274